

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
KEVIN J. MEYERS,

Plaintiff,

Civil Case No.: 2023-CV-8311

COMPLAINT

-against-

Jury Trial Demanded

COUNTY OF SUFFOLK, SUFFOLK COUNTY
DISTRICT ATTORNEY'S OFFICE, SUFFOLK
COUNTY POLICE DEPARTMENT, ASSISTANT
DISTRICT ATTORNEY MARY SKIBER and JOHN
DOES 1-10 (DOE defendants representing
unidentified members of the Suffolk County Police
Department involved with the seizure, unlawful
retention, and/or conversion of plaintiff's property),

Defendants.

-----X

Plaintiff, Kevin J. Meyers, by his attorney, RAYMOND NEGRON, ESQ., for his
Complaint respectfully alleges as follows:

PRELIMINARY STATEMENT

1. This is a civil rights action for monetary damages and equitable relief brought under 42 U.S.C. §1983 against defendants for committing acts under color of law and depriving plaintiff of rights secured by the Second, Fourth, and Fourteenth Amendments of the United States Constitution.

JURISDICTION

2. This Court has jurisdiction of this action under 28 U.S.C. §§1331 and 1343 in that defendants' conduct violated rights guaranteed to plaintiff under the Second, Fourth, and Fourteenth

Amendments of the United States Constitution. This Court has supplemental jurisdiction over plaintiff's New York State law claims under 28 U.S.C. §1367.

3. Venue in this District is proper under 28 U.S.C. §1391(b), since plaintiff's claims arose in the Eastern District of New York and upon information and belief, all parties currently reside or maintain their offices for employment in Suffolk County, New York.

PARTIES

4. At all times hereinafter mentioned, plaintiff KEVIN J. MEYERS ("Plaintiff") was a resident of Suffolk County, New York State.

5. At all times hereinafter mentioned, defendant the COUNTY OF SUFFOLK ("Suffolk") was and continues to be a duly constituted municipal corporation of the State of New York existing and operating under and by virtue of the laws of the State of New York with a principle place of business located at 100 Veterans Memorial Highway, Hauppauge, New York 11788. At all times hereinafter mentioned, this defendant was acting under the color of state law.

6. At all times hereinafter mentioned, defendant SUFFOLK COUNTY DISTRICT ATTORNEY'S OFFICE ("SCDA") was and continues to be an agency of defendant COUNTY OF SUFFOLK and is headquartered at 725 Veterans Memorial Highway, Hauppauge, New York 11788. At all times relevant to this complaint, this defendant was acting under the color of state law.

7. At all times hereinafter mentioned, defendant SUFFOLK COUNTY POLICE DEPARTMENT ("SCPD") was and continues to be an agency of defendant, the COUNTY OF SUFFOLK, and is headquartered at 30 Yaphank Avenue, Yaphank, New York 11980. At all times relevant to this complaint, this defendant was acting under the color of state law.

8. Upon information and belief, at all times hereinafter mentioned, defendant MARY SKIBER (“Skiber”) was and continues to be an Assistant District Attorney employed by defendant SCDA. At all times hereinafter mentioned, this defendant was acting under the color of state law. She is being sued in her individual and official capacity.

9. At all times hereinafter mentioned, defendants JOHN DOES 1-10 (“Officers”) are fictitious names representing unidentified employees of the Suffolk County Police Department involved in the seizure of plaintiff’s property, and/or the unlawful retention of plaintiff’s property, and/or the conversion of plaintiff’s property. These defendants were and may continue to be law enforcement officers employed by defendant SCPD. At all times hereinafter mentioned, these defendants were acting under the color of state law. They are being sued in their individual and official capacities.

FACTUAL ALLEGATIONS

10. Plaintiff is a life-long resident of Long Island, New York who has lived in Medford, Brookhaven Town, Suffolk County, New York State for the last three years, is single, and has four children.

11. On February 24, 2019, Plaintiff resided at 109 Parkdale Drive, North Babylon, Babylon Town, Suffolk County, New York State.

12. At all times relevant to this action Plaintiff legally owned and legally possessed at least eight (8) pistols, twelve (12) rifles, sixteen (16) magazines, and twelve thousand six hundred five (12,605) rounds of ammunition which he has regularly kept locked in three separate safes.

13. On or about February 24, 2019 Plaintiff’s son, Jessie Meyers, lived with Plaintiff at 109 Parkdale Drive, North Babylon, New York.

14. On or about February 24, 2019 the SCPD obtained an arrest warrant for Jessie Meyers and executed same at his and Plaintiff's residence.

15. While at Plaintiff's residence, Officers asked Plaintiff if he (Plaintiff) owned any weapons to which Plaintiff replied yes and demonstrated that they were all locked in safes that Jessie Meyers did not have any access to.

16. When Officers inspected the contents of the safes, they alleged that one particular rifle, a Bushmaster .223 caliber model XM15-E2C ("Rifle") was subject to New York's recent adoption of a requirement to register certain weapons.

17. New York's "assault" rifle registration law had suffered years of litigation over its vagueness, Constitutionality, and bureaucratic ineffectiveness leaving open to interpretation which guns had to be registered and which did not.

18. SCPD arrested and charged Plaintiff with a felony and seized the Rifle.

19. The SCPD simultaneously seized all of Plaintiff's legally owned pistols, rifles, and magazines without any legal authority to do so.

20. Plaintiff registered his Rifle with New York State on February 28, 2019.

21. Rather than bare the cost of fighting the legality of the search and circumstances of the arrest, Plaintiff accepted the plea-deal the SCDA offered and plead guilty to one count of PL § 265.01 (01) (Criminal Possession of a Weapon, 4th Degree; Class A misdemeanor) on December 3, 2020 and was sentenced to three years probation.

22. Plaintiff served his probation ("interim" probation and then probation) from December 5, 2019 through his early release on May 3, 2022 (This is the only time period in Plaintiff's life since turning eighteen years old that he was not legally permitted to possess a firearm; it was a condition of his probation).

23. Plaintiff has made numerous attempts to retrieve his rifles, ammunition, and magazines from the possession of the SCPD without success.

24. SCPD Officers have consistently told Plaintiff that the SCDA and Skiber will not “release” his rifles, ammunition, and magazines.

25. Defendants have not informed Plaintiff of any procedure to retrieve his property.

26. Defendants are holding Plaintiff’s property under the color of law.

27. Defendants have failed to properly train their employees on the subjects of the Second, Fourth, and Fourteenth Amendments of the United States Constitution.

28. Defendants’ seizure of Plaintiff’s property violated Plaintiff’s due process rights since no mechanism existed for the return of his property and no hearing was afforded to him either before or after Defendants seized his property.

29. Defendants have instituted a procedure, which has become policy and practice, under which they unlawfully seize and retain legally possessed property and fail to provide a post-deprivation hearing, fail to formally notify the property owners of the reasons why Defendants are holding their property, or of the steps that can be taken to regain possession of their property.

30. Defendant SCPD has no written policy or procedure for the return of an individual’s legal property.

31. Defendants SCPD and SCDA regularly do not to inform individuals about their rights to have property returned to them.

32. Defendants regularly condone the unconstitutional custom or practice of seizing and withholding firearms under the color of law.

33. Plaintiff’s personal property has been wrongfully withheld, converted, and kept from

him by Defendants despite persistent and repeated requests for the return of the property and no legal authority to not return it.

34. The actions of Defendants caused plaintiff to suffer loss of use of property, emotional distress, mental anguish, shame, humiliation, indignity, damage to reputation, and caused him to incur monetary costs for attorney's fees.

AS AND FOR A FIRST CAUSE OF ACTION

**42 U.S.C. §1983 – Violation of Plaintiff's 14th Amendment Due Process Rights
(As Against All Defendants)**

35. Plaintiff repeats and re-alleges the allegations set forth in paragraphs "1" through "34" above as if fully set forth herein.

36. An individual is afforded Due Process protection under the Fourteenth Amendment of the United States Constitution in regard to governmental seizure and retention of personal property.

37. Plaintiff's rifles, ammunition, and magazines more particularly described in **Exhibit A** annexed hereto, are property to which he is afforded Second and Fourth Amendment protection to possess and Fourteenth Amendment Due Process protection if the government wishes to take it away.

38. Defendants, acting under color of New York State law, have enacted a policy under which they routinely and wrongfully seize and retain private property, including firearms, ammunition, and magazines, without providing a mechanism under which the owner of the property can reclaim the property.

39. Pursuant to New York State law, there is no licensing requirement for the possession of rifles, ammunition, or magazines and Defendants' seizure of Plaintiff's property, when there is no

claim that such property are contraband *per se* or that they were used in a crime, without any notice or opportunity to be heard is a violation of Plaintiff's due process rights as guaranteed by the Fourteenth Amendment.

40. By failing to provide Plaintiff with any notice or an opportunity for a hearing, either prior to or subsequent to the seizure of Plaintiff's property, Defendants violated Plaintiff's rights as guaranteed by the Fourth and Fourteenth Amendment.

41. Defendants have further violated Plaintiff's Fourteenth Amendment due process rights by failing to have a procedure in place under which plaintiff could challenge this illegal conduct.

42. By requiring Plaintiff to take affirmative steps, including, *inter alia*, the preparation of formal legal pleadings, the payment of a filing fee, the hiring of an attorney, and the subsequent participation in all formal procedural devices of a court action, to challenge this unlawful seizure of Plaintiff's property, Defendants have acted unreasonably, unconstitutionally, and in violation of the Due Process Clause of the Fourteenth Amendment.

AS AND FOR A SECOND CAUSE OF ACTION

42 U.S.C. §1983 – Violation of Plaintiff's 2nd and/or 4th Amendment Rights Against Unreasonable Search and Seizure (As Against All Defendants)

43. Plaintiff repeats and re-alleges the allegations set forth in paragraphs "1" through "42" above as if fully set forth herein.

44. The Fourth Amendment to the United States Constitution protects individuals from unreasonable searches and seizures of their property by the government.

45. Defendants, acting under color of state law, unreasonably seized Plaintiff's rifles,

ammunition, and magazines in that Defendants had no lawful authority to do so and did not have Plaintiff's consent.

46. Defendants, acting under color of state law, unreasonably retained Plaintiff's rifles, ammunition, and magazines after he was released from probation in that Defendants had no lawful authority to do so and did not have Plaintiff's consent.

47. Accordingly, by retaining and refusing to return Plaintiff's rifles, ammunition, and magazines, Defendants have violated plaintiff's Constitutional right under the Second and/or Fourth Amendments which protects against unreasonable searches and seizures by the government.

AS AND FOR A THIRD CAUSE OF ACTION

42 U.S.C. §1983 – *Monell* Claim (As Against All Defendants)

48. Plaintiff repeats and re-alleges the allegations set forth in paragraphs "1" through "47" above as if fully set forth herein.

49. Defendants, by a pattern of neglect, malfeasance and nonfeasance have illegally, unnecessarily, wantonly and willfully caused Plaintiff's property to be unlawfully seized and retained without providing a mechanism under which plaintiff can reclaim his property.

50. It is the custom, policy and practice of Defendants to tolerate, condone and encourage Constitutional violations, such as those alleged by Plaintiff, by failing to discipline or train their employees who unlawfully seize and/or retain property without providing a mechanism under which an individual whose property was seized and/or retained could reclaim their property.

51. These longstanding customs, policies and practices constitute defendants' standard operating procedures.

52. These customs, policies and practices include, *inter alia*, an ongoing pattern and

practice of unlawfully seizing legally possessed property and retaining said property indefinitely without providing a reason why the property continues to be retained and without providing any mechanism for an individual to reclaim the property.

53. Defendants expressly encouraged, ratified and/or approved of the conduct alleged herein, and knew that such conduct was unjustified and would result in violations of Constitutional rights, including the violation of Plaintiff's constitutional rights.

AS AND FOR A FOURTH CAUSE OF ACTION

Conversion (As Against All Defendants)

54. Plaintiff repeats and re-alleges the allegations set forth in paragraphs "1" through "53" above as if fully set forth herein.

55. Defendants continue to retain possession of all of the property listed in **Exhibit A** annexed hereto without cause or legal authority and without a remedy for Plaintiff.

56. The fair and reasonable total value of the property remaining in defendants' possession is \$100,000.00.

57. By reason of the foregoing, plaintiff has been damaged in the sum of \$100,000.00 or an amount to be determined by a jury representing the value of the property remaining in defendant's possession.

AS AND FOR A FIFTH CAUSE OF ACTION

Replevin (As Against All Defendants)

58. Plaintiff repeats and re-alleges the allegations set forth in paragraphs "1" through

“57” above as if fully set forth herein.

59. Defendants took and retained plaintiff’s property and continue to retain the property listed in **Exhibit A** annexed hereto.

60. The detention of plaintiff’s property is wrongful.

61. Plaintiff demands compensation for his property that was taken and retained by Defendants.

62. Plaintiff has no adequate remedy at law.

63. By reason of the foregoing, Plaintiff is entitled to an order and judgment of replevin directing that defendants return to Plaintiff all of his property.

PRAYERS FOR RELIEF

WHEREFORE, plaintiff requests the following relief:

A. First Cause of Action: One Million Dollars (\$1,000,000) or an amount to be determined by a jury for actual damages and one million dollars (\$1,000,000) or an amount to be determined by a jury for punitive damages;

B. Second Cause of Action: One Million Dollars (\$1,000,000) or an amount to be determined by a jury for actual damages and one million dollars (\$1,000,000) or an amount to be determined by a jury for punitive damages;

C. Third Cause of Action: One Million Dollars (\$1,000,000) or an amount to be determined by a jury for actual damages and one million dollars (\$1,000,000) or an amount to be determined by a jury for punitive damages;

D. Fourth Cause of Action: One Million Dollars (\$1,000,000) or an amount to be determined by a jury for actual damages and one million dollars (\$1,000,000) or an amount to be determined by a jury for punitive damages;

E. Fifth Cause of Action: the return of all of Plaintiff's property currently in the Defendants' possession;

F. Attorney's fees and costs pursuant to 42 U.S.C. § 1988, or in an amount this Court deems proper and appropriate;

G. A declaratory judgment that Defendants willfully violated Plaintiff's rights secured by the United States Constitution, as alleged herein;

H. An Order requiring Defendants to monitor the seizure of property and institute a post-deprivation due process hearing for individuals whose property has been seized when such individuals are not legally barred from possessing the subject property. An impartial hearing examiner or Judge shall preside over this hearing. This process will provide an aggrieved party with proper notice and an opportunity to a fair hearing to determine the legality of the seizure and detention of anyone's property.


I. An Order granting such other legal and equitable relief as the Court deems just and proper.

JURY TRIAL DEMANDED

Plaintiff hereby demands a trial by jury of all issues of fact.

Dated: Mount Sinai, New York
November 18, 2023

Yours, etc.,




RAYMOND NEGRÓN, ESQ.
Attorneys for Plaintiff Richard Weiss
234 North Country Road
Mount Sinai, New York 11766
(631) 928-3244

CERTIFICATION

State of New York)
)ss:
County of Suffolk)

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

The grounds of my belief as to all matters not stated upon my own knowledge are as follows: discussions, letters, and records of the Plaintiff and Defendants.



Kevin J. Meyers

Sworn and Subscribed before me
this 8th day of November, 2023



Notary Public

RAYMOND NEGRON
Notary Public, State of New York
No. 03NE6072165
Qualified in Suffolk County
Commission Expires April 1, 20 26

Exhibit A

Suffolk County Police Department
PROPERTY SECTION

LIST REPORT

List Name - New List

PAGE 3
DATE 09/10/2020
TIME 10:20:42 AM

ITEM NO	VC#	CC#	QTY	STAT	NCIC CODE	DESCRIPTION	LAB #	LOCATION
19007708 1		19-0122709	1	HOLD	WR KSI	kassnar squires bingham model 19830 16 22 cal rifle, lab item 4 SER #: A191044		WEPS002B
19007711 1		19-0122709	1	HOLD	WR BHT	bushmaster 223 cal model XM15-E2C Lab #5 SER #: BF1454361	19830	WEPS002B
19007713 1		19-0122709	1	HOLD	WR MOS	mossberg 22 cal rifle with pistol 19830 grip (lab item 6) SER #: ELE3398705		WEPS002C
19007771 1		19-0122709	1	HOLD	YMAG	adventure line gray 30 round magazine SER #: CONT A	19830	C 002E
19007771 2		19-0122709	1	HOLD	YMAG	adventure line gray 30 round magazine SER #: CONT A	19830	C 002E
19007771 3		19-0122709	1	HOLD	YMAG	gray 30 round magazine SER #: CONT A	19830	C 002E
19007771 4		19-0122709	1	HOLD	YMAG	black .308 cal magazine SER #: CONT A	19830	C 002E
19007771 5		19-0122709	1	HOLD	YMAG	black .308 cal magazine SER #: CONT A	19830	C 002E
19007771 6		19-0122709	1	HOLD	YMAG	black 9mm cal magazine SER #: CONT A	19830	C 002E
19007771 7		19-0122709	1	HOLD	YMAG	para black 9mm cla magazine SER #: CONT A	19830	C 002E
19007771 8		19-0122709	1	HOLD	YMAG	black 9mm cal magazine	19830	C 002E

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Suffolk County Police Department
PROPERTY SECTION

LIST REPORT

List Name - New List

PAGE 2
DATE 09/10/2020
TIME 10:20:42 AM

ITEM NO	VC#	CC#	QTY	STAT	NCIC CODE	DESCRIPTION	LAB #	LOCATION
19004938	1	19-0122709	1	HOLD	WR REM	scope and bipod attached SER #: MVP021848 remington model 522 22 cal rifle SER #: 3079544	R	LNGG010B
19004939	1	19-0122709	1	HOLD	WS THM	thompson 308 winchester with scope SER #: U056298	R	LNGG010C
19004940	1	19-0122709	1	HOLD	WR REM	remington model 510, 22 cal bolt action rifle	R	LNGG008B
19004941	1	19-0122709	1	HOLD	WR REM	remington model 770 30-06 rifle with scope SER #: M71927659	R	LNGG007B
19004942	1	19-0122709	1	HOLD	WR BRO	browning MK II rifle with scope 270 cal SER #: 311MW14750	R	LNGG007B
19004943	1	19-0122709	1	HOLD	WR THM	thompson black diamond 50 cal rifle SER #: 103002	R	LNGG007B
19004944	1	19-0122709	1	HOLD	WR SAV	savage arms model 11 308 winchester rifle SER #: J172474	R	LNGG007B
19004945	1	19-0122709	1	HOLD	WS MOS	mossberg thunder ranch 12 ga shotgun (mossberg sticker) SER #: U685142	R	LNGG014C
19004946	1	19-0122709	1	HOLD	WR MAR	marlin model 60 22 cal rifle SER #: 00229492	R	LNGG014C

list

Southfolk County Police Department
PROPERTY SECTION

LIST REPORT

List Name - New List

PAGE 1
DATE 05/13/2019
TIME 09:26:14 AM

ITEM NO	VC#	CC#	QTY	STAT	NCIC CODE	DESCRIPTION	LAB #	LOCATION
18000022 1		17-0699024	1	TD	WPI MAK	makarov K Bl 9mm auto/no clip SER #: PM00884	P	WEPS003C
18000022 2		17-0699024	1	TD	WPR SW	sw 60 .38 cal rev SER #: ABR1839	P	WEPS003C
18000022 3		17-0699024	1	TD	WPI SW	sw 622 .22 cal auto no clip SER #: UBA2907	P	WEPS003C
18000022 4		17-0699024	1	TD	WPI BER	beretta tomcat .32 cal auto no clip SER #: DAA093763	P	WEPS003C
18000022 5		17-0699024	1	TD	WPI HS	high standard DM 101 22 cal other SER #: 1793238	P	WEPS003C
18000022 6		17-0699024	1	TD	WPI BER	beretta 84 380 cal auto no clip SER #: B26805Y	P	WEPS003C
18000022 7		17-0699024	1	TD	WPI BER	sw 29-2 44 cal rev SER #: N857447	P	WEPS003C
18000022 8		17-0699024	1	TD	WPR SW	sw 29-3 44 cal rev SER #: AUH6901	P	WEPS003C

County Police Department
PROPERTY SECTION

LIST REPORT

List Name - New List

PAGE 4
DATE 09/10/2020
TIME 10:20:42 AM

ITEM NO	VC#	CC#	QTY	STAT	NCIC CODE	DESCRIPTION	LAB #	LOCATION
19007771 9		19-0122709	1	HOLD	YMAG	white metal 9mm cal / 380 short 19830 magazine SER #: CONT A		C 002E
19007771 10		19-0122709	1	HOLD	YMAG	white metal 9mm cal / 380 short 19830 magazine SER #: CONT A		C 002E
19007771 11		19-0122709	1	HOLD	YMAG	white metal 9mm cal / 380 short 19830 magazine SER #: CONT A		C 002E
19007771 12		19-0122709	1	HOLD	YMAG	smith wesson white metal 9mm 19830 magazine SER #: CONT A		C 002E
19007771 13		19-0122709	1	HOLD	YMAG	smith wesson white metal 9mm 19830 magazine SER #: CONT A		C 002E
19007771 14		19-0122709	1	HOLD	YMAG	smith wesson white metal 9mm 19830 magazine SER #: CONT A		C 002E
19007771 15		19-0122709	1	HOLD	YMAG	smith wesson white metal 9mm 19830 magazine SER #: CONT A		C 002E
19007771 16		19-0122709	1	HOLD	YMAG	smith wesson white metal 9mm 19830 magazine SER #: CONT A		C 002E

Plaintiff has more rifles and pistols than what are listed on the attached inventory sheets and intends to prove their existence and value at trial.

Caliber/Gauge Number of Rounds/Shells

.223	4,500
12g	800
20g	875
.270wsm	130
.45 Colt	50
.45 Hollow	250
.45 Ball	350
.40	1,200
.38	125
9mm Hollow	150
9mm Ball	300
.38 Special	125
.22	3,500
.410	200
.32	50

Docket Number: CV-23-8311

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

HON. , D.C.J. / HON. , M.J.

KEVIN J. MEYERS,

Plaintiff,

-against-

**COUNTY OF SUFFOLK, SUFFOLK COUNTY
DISTRICT ATTORNEY'S OFFICE, SUFFOLK
COUNTY POLICE DEPARTMENT, ASSISTANT
DISTRICT ATTORNEY MARY SKIBER and JOHN
DOES 1-10,**

Defendants.

SUMMONS & COMPLAINT

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